

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

MATTHEW OKONKWO,
Petitioner,

V.

UNITED STATES OF AMERICA
Respondent.

2007 DEC 20 A 3:41

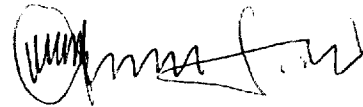
REDA P. HARRIS
U.S. DISTRICT COURT
MIDDLE DISTRICT
Civil Action No. 1:07cv1062-MHT

MOTION TO AMEND PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE RULE 15(A)

COMES NOW, Petitioner Matthew S. Okonkwo, proceeding pro-se in this matter, respectfully moves this Honorable Court to allow him to amend paragraph 2 page 18 of memorandum in support of Motion under 28 U.S.C. § 2255, and state as follows:-

- (1) That this amendment is crucial to correct errors in paragraph 2 page 18 which petitioner discovered after filing the Motion under 28 U.S.C. § 2255
- (2) That attached amendment replaces stated paragraph and page only.
- (3) That this amendment is in compliance with Federal Rules of Civil Procedure. Petitioner prays this Honorable Court to grant Motion and incorporate attached amendment to original document.

RESPECTFULLY SUBMITTED THIS 16TH DAY OF DECEMBER 2007.




MATTHEW S. OKONKWO
Petitioner, pro-se
McRae Correctional Facility
P. O. Box 30
McRae, GA 31055

PETITIONER AMENDS ISSUE 1(E) PAGE 18 PARAGRAPH 2, WITH HEADING "WHETHER TRIAL COUNSEL'S INADEQUATE PRETRIAL INVESTIGATION CONSTITUTED INEFFECTIVE ASSISTANCE OF COUNSEL, PARTICULARLY THE STATUTE OF LIMITATIONS FOR INCOME TAX REFUND" OF ANNEXED MEMORANDUM OF LAW IN SUPPORT OF 28 U.S.C. § 2255 FILED ON NOVEMBER 28 2007. PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE § 15(A).

This amendment apply only to paragraph two of page 18 as indicated above.

The Criminal Tax Manual 7.00.. Statute of Limitations states that "No person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue law..., and generally, the statute of limitations begins to run when an offense is committed. Toussie v united states, 397 U.S. 112 115 (1970). The line that reads "False Claim for Refund 18 U.S.C. §286/287 5years 18 U.S.C. §3282" is hereby amended because petitioner was not charged under that section but may have been punished under that section. Petitioner was charged under U.S.C. §7206(2) for count three to twelve, the statute of limitations is 6years, however, count three to nine are over 6years old. 'See DOCUMENT 53 AMENDED JUDGMENT IN A CRIMINAL CASE FILED FEBRUARY 6TH 2007 PAGE TWO.' It is no exaggeration to say that: (1) The Court erred by instructing and allowing the Jury to return guilty verdict on these counts. (2) had trial counsel conducted pretrial investigation into prosecution's weak case, he would have discovered that statute of limitations had run out prior to the indictment of April 5th 2006, (3) U.S. Attorney and IRS Special Agent Larry Ellis knew these facts pretty well that those counts 3 to 9 at least where false, and still presented them with evidence and witnesses with clear intention to mislead this Honorable Court and the Jury in other to exalt themselves.

THIS PARAGRAPH REPLACES PARAGRAPH 2, PAGE 18 OF ANNEXED MEMORANDUM OF LAW IN SUPPORT OF 28 U.S.C § 2255 MOTION TO VACATE, SET ASIDE, OR AMEND SENTENCE. ALL OTHER PARAGRAPHS REMAIN VALID AS STATED. AS OF THE DATE OF THIS AMENDMENT, PETITIONER HAS NOT RECEIVED ANY RESPONSE FROM U.S. ATTORNEY, BEN E. BRUNER, OR RUSSELL T. DARASKI.

 12/16/07

CERTIFICATE OF SERVICE

I hereby certify that I have this 16th day of December 2007, serve a copy of the foregoing Amendment to paragraph 2 page 18 ISSUE 1(E) of pleading in support of motion under 28 U.S.C. ;2255 in paper format, by placing the copy of the same in the United States Postal Service, deposited in mail box at McRae Correctional Facility. properly addressed and postage paid, and upon:

Mr. Andrew O. Shiff
Assistant United States Attorney
United States Attorney's Office
One Court Square, Suite 201
Montgomery, Alabama 36 104



Matthew S. Okonkwo, Pro-Se
Petitioner
McRae Correctional Facility
P.O. Drawer 30
McRae, GA 31055

36101+8711-11 8097
Clerk,
Office of Clerk,
United States District Court
P.O. Box 711
Montgomery, AL 36101-0711

Matthew S. Okonkwo
117926-002
P.O. Box 30
McRae, GA 31055

